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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/138,054	08/21/1998	RAMANATHAN RAMANATHAN	INTL-0084-US	3628

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EXAMINER
VU, NGOC K

ART UNIT	PAPER NUMBER
2611	3

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/138,054	Applicant(s) RAMANATHAN, RAMANATHAN
	Examiner Ngoc K. Vu	Art Unit 2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-30 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12 and 13 recite the limitation "the transmitter's transmission characteristic" in claim 1. There is insufficient antecedent basis for this limitation in the claim.

3. Claims 12-13 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, it is not clear what "the transmitter's transmission characteristic" is retrieved by the data management module at startup of the transmitter module or data management module. It is noted that what different between "transmitter's transmission characteristic" and "predefined transmission characteristic" is.

In claim 24, limitation "the program includes the transmitter and a data management module" is indefinite since "the program" is software. It is impossible to state that software/program including devices as "the transmitter" and "data management module".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-5 and 7-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Adams (US 6,044,396).

Regarding claim 1, Adams discloses a transmission system, comprising: a data management module (1002, 708, 208, 206, 204, and 202) capable of managing data flow (controlling rate of encoder 702 and processor 706); and a transmitter module (210) couple to a transport medium and to the data management module, the transmitter module having at least one predefined transmission characteristic (the variable bit rate is limited to a predetermined maximum value), wherein the data management module modifies its data flow management based on at least one characteristic of the transmitter (the rate of the secondary information stream depends upon the rates of the encoded information streams; and the channel rate control circuit 708 controls the processing rate of the encoder 202 and the encoder transmit processor 706) (see FIG. 1, 2, 4, 7, 10; col. 2, lines 46-48; col. 3, lines 65-67; col. 5, lines 47-50 and 57-61).

Regarding claims 2 and 3, Adams discloses an additional transmitter module with a different transport medium (the service source has a cable feedline 212) (see col. 4, lines 6-9).

Regarding claims 4 and 7, Adams discloses that the transmission characteristic of the transmitter module varies over time, wherein the transmission characteristic includes a

data flow rate of the transmitter module (the bit rate of the encoder 700 is allowed to vary) (see col. 6, lines 44-50).

Regarding claim 5, Adams discloses the system further comprising an interface (selector 404) (see FIG. 4, and col. 4, lines 52-54).

Regarding claim 8, Adams discloses the data flow rate is adjusted to compensate for delays in the transmitter module (decrease the rate at which the transmit processor 706 reads data from the encoder buffer 704) (see col. 5, lines 61-65).

Regarding claim 9, Adams discloses the limitation of the data management module that reads on the channel rate control circuit 708 governs rates of the encoder 702 and the encoder transmit processor 706 based upon a comparison of buffer 704 with a buffer fullness threshold T (see col. 5, lines 57-60).

Regarding claims 10 and 11, Adams discloses that the data management module combines digital data (digital program) with television data (cable programming) to transmit over the transport medium, and wherein the transport medium includes cable transmission (see col. 2-3, lines 40-11).

Regarding claims 12 and 13, Adams discloses the limitations of transmitter's transmission characteristic and the data management module that read on the channel rate control circuit 708 monitors the fullness of the encoder buffer 704, and in response, controls the processing rate of the encoder 202 and the encoder transmit processor 706 (see col. 5, lines 47-50).

6. Claims 14-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Ginzburg et al. (US 6,078,919).

Regarding claim 14, Adams discloses a transmission system, comprising: a data management program capable of assembling data (client 14 sends the data request to

server software system 18 of server 17); a transmitter (server 17) capable of receiving data from the data management program and transmitting the data to a transport medium (processes the request and delivers the requested data to client 14); and a communication interface (network 16) between the data management program and the transmitter that enables the data management program and transmitter to negotiate the type of communication to be performed based on the type of transport medium used (including global computer networks such as Internet, local computer such as Ethernet/telephone/cable/DBS networks or any other transmission medium suitable for supporting client-server communication) (see col. 2, lines 61-65; col. 3, lines 43-50).

Regarding claim 15, Ginzburg discloses delivering Internet and television information (see col. 2, lines 43-50).

Regarding claim 16, Ginzburg discloses delivering information to a user over the Internet with hypertext transport protocol and transmission control protocol, delivering audio-video programming to user over cable system (see col. 2, lines 43-50).

Regarding claim 17, Ginzburg discloses that transport media have different transmission characteristics (delivering information to a user over the Internet with hypertext transport protocol and transmission control protocol, delivering audio-video programming to user over cable system) (see col. 2, lines 43-50).

Regarding claim 18, Ginzburg discloses that utilizing the requested bit rate to determine the optimal size of an internal buffer to be allocated for use with the data request (see col. 5, lines 15-17),

Regarding claim 19, Ginzburg discloses that the network client 14 and server 17 exchange information over network 16 (see col. 3, lines 43-50).

Regarding claim 20, Ginzburg discloses delivering the requested data at the desired bit rate (see col. 3, lines 54-59).

Regarding claim 21, Ginzburg discloses a computer-readable medium storing a program (software) executable by a computer (client 14 is configured to execute computer software instructions involved in performing the network parameter calculations) in a transmission system including a transport medium, the program comprising instructions for causing the computer to identify at least one transmission characteristic (identify network parameter such as transfer bit rate) of the transport medium over which data to be transmitted by a transmitter module (sever 17); and modify data flow management based on the identified at least one transmission characteristic (network 16 can accommodate the requested data transfer bit rate) (see col. 5, lines 10-17, 26-29; col. 3, lines 43-50).

Regarding claim 22, Ginzburg discloses performing a network parameter determination prior to delivery of data from a client to a server, from a client to database or other storage location, or from one client to another client (see col. 6, lines 27-30).

Regarding claim 23, Ginzburg discloses delivering the requested data at the desired bit rate (see col. 3, lines 54-59).

Regarding claim 24, insofar as understood, the limitation is read on network client 14 including suitable programmed data processor capable of processing a data request received from a user as disclosed by Ginzburg (see col. 2, lines 53-57).

Regarding claims 25 and 26, Ginzburg discloses that the network client 14 and server 17 exchange information over network 16 (see col. 3, lines 43-50).

Regarding claim 27, Ginzburg discloses a method of managing data flow over transport medium in an interactive transmission type, comprising: identifying at least one

transmission characteristic (identify network parameter such as transfer bit rate) of a transmitter used to transmit data over the transport medium; and modifying data flow management based on the identified at least one transmission characteristic (network 16 can accommodate the requested data transfer bit rate) (see col. 5, lines 10-17; col. 3, lines 43-50).

Regarding claim 28, Ginzburg discloses performing a network parameter determination prior to delivery of data from a client to a server, from a client to database or other storage location, or from one client to another client (see col. 6, lines 27-30).

Regarding claim 29, Ginzburg discloses delivering the requested data at the desired bit rate (see col. 3, lines 54-59).

Regarding claim 30, Ginzburg discloses that the network client 14 and server 17 exchange information over network 16 (see col. 3, lines 43-50).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claim is 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams (US 6,044,396).

Adams discloses the system comprising an interface (selector 404) (see FIG. 4, and col. 4, lines 52-54), but does not specifically disclose interface including API interface.

Official Notice is taken that utilizing API interface for compatible communication between the different protocols in data communication system is well known in the art. Therefore,

it would have been obvious to one of ordinary skill in the art to modify Adams by including API as interface for compatible communication between the different protocols.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gotwald (US 5,987518) teaches a method and apparatus for communicating internet protocol data over a broadband MPEG channel. Ogino et al. (US 6,038,625) teaches a method and system for providing a device identification mechanism within a consumer audio/video network. Peifer et al. (US 5,987,519) teaches a single transport/network layer protocol is used for encapsulating the information in packets at the sending end and for de-encapsulating the information at the receiving end.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

NV
March 9, 2002

Bhavesh Mehta
Primary Examiner